

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
By: SHARON COHEN LEVIN  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, NY 10007  
Tel. (212) 637-1060

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA,

: Plaintiff, : NOTICE OF MOTION FOR  
  DEFAULT JUDGMENT

- v -

: : 07 Civ. 11089 (VM)

\$12,685,257.10 IN UNITED STATES  
CURRENCY,

: :

Defendant-in rem.

-----x  
PLEASE TAKE NOTICE that upon the accompanying declaration  
of Sharon Cohen Levin, Assistant United States Attorney, dated May  
1, 2008, and the accompanying Clerk's Certification, plaintiff  
United States of America by and through its attorney, Michael J.  
Garcia, United States Attorney for the Southern District of New  
York, hereby moves before the Honorable Victor Marrero, United  
States District Judge, for an Order of Default Judgment,

pursuant to Rule 55(b) (2) of the Federal Rules of Civil Procedure.

Dated: New York, New York  
May 1, 2008

Respectfully submitted,

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
United States of America

By:

  
SHARON COHEN LEVIN  
Assistant United States Attorney  
One St. Andrews Plaza  
New York, New York 10007  
(212) 637-1060

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

- v. -

\$12,685,257.10 IN UNITED STATES CURRENCY,

Defendant-in-rem.

---

**NOTICE OF MOTION FOR DEFAULT JUDGMENT**  
**07 Civ. 11089 (VM)**

---

---

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
Attorney for the United States of America  
One St. Andrew's Plaza  
New York, New York 10007

SHARON COHEN LEVIN  
Assistant United States Attorney  
-Of Counsel-

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
By: SHARON COHEN LEVIN  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, New York 10007  
Tel. (212) 637-1060

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA, :  
  
Plaintiff, :  
  
- v. - : DECLARATION IN SUPPORT  
OF DEFAULT JUDGMENT  
\$12,685,257.10 IN UNITED STATES :  
CURRENCY, :  
Defendant-in-rem.  
-----x

SHARON COHEN LEVIN, pursuant to 28 U.S.C. § 1746,  
declares under penalty of perjury as follows:

1. I am an Assistant United States Attorney in the  
Office of Michael J. Garcia, United States of Attorney for the  
Southern District of New York, attorney for plaintiff herein. I  
have responsibility for the above-captioned matter, and as such, I  
am familiar with the facts and circumstances of this proceeding.  
This declaration is submitted in support of plaintiff's request for  
a default judgment in the above-captioned case.

2. On December 7, 2007, the United States  
commenced a civil action for the forfeiture of the above-referenced  
defendant-in-rem by filing a verified complaint. A copy of the  
verified complaint is attached hereto as Exhibit A and is fully

incorporated by reference herein.

3. On December 11, 2007 a notice letter of the verified complaint was sent by certified mail, return receipt requested, to John W. Moscow, Esq., Baker & Hostetler, as attorney for Belle Six, 666 Fifth Ave., New York, NY 10103. Belle Six is the only person known by the Government to have a potential interest in the defendant property. A copy of the notice letter is attached hereto as Exhibit B.

4. Notice of the Verified Complaint and in rem warrant against the defendant-in-rem was published in the New York Post once in each of the three successive weeks beginning on December 27, 2007 and proof of such publication was filed with the Clerk of this Court on April 28, 2008. A copy of this proof of publication is attached hereto as Exhibit C.

5. No claims or answers were filed or made in this action, and no parties have appeared to contest the action to date, and requisite time periods have expired.

6. Accordingly, the Government requests that the Court enter the proposed Default Judgment.

7. No previous application for the relief requested herein has been sought.

Dated: New York, New York  
May 1, 2008



---

SHARON COHEN LEVIN  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, New York 10007  
Tel. (212) 637-1060

# EXHIBIT A

**MICHAEL J. GARCIA**

United States Attorney for the  
Southern District of New York  
By: SHARON COHEN LEVIN  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, New York 10007  
(212) 637-1060.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - : UNITED STATES OF AMERICA, :

-v.- :

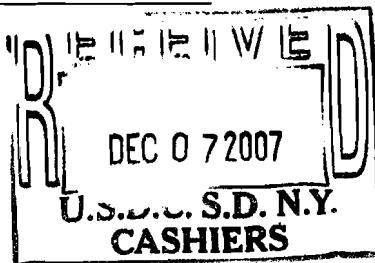
\$12,685,257.10 in UNITED STATES :  
CURRENCY,

Defendant in rem. :

07 CV 11089

VERIFIED COMPLAINT

07 Civ.



Plaintiff United States of America, by its attorney,  
Michael J. Garcia, United States Attorney for the Southern District  
of New York, for its verified complaint alleges, upon information  
and belief, as follows:

I. JURISDICTION AND VENUE

1. This action is brought pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 984 by the United States of America seeking the forfeiture of \$12,685,257.10 in United States Currency (the "Defendant in Rem").

2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1345 and 1355.

3. Venue is proper pursuant to 28 U.S.C. § 1335(b)(1)(A) because acts and omissions giving rise to the forfeiture took place in the Southern District of New York and pursuant to 28 U.S.C. § 1395 because the Defendant in Rem is located in the Southern District of New York.

4. A sum of \$12,685,257.10 of the Defendant in Rem is currently being held on deposit in the Department of Treasury Seized Asset Deposit Fund.

### III. PROBABLE CAUSE FOR FORFEITURE

#### Overview of the Conspiracy

5. Ernst & Young ("E&Y") was one of the largest accounting firms in the world. E&Y provided tax services to corporate and individual clients, including some of the wealthiest individuals in the United States. The tax services included preparing tax returns, providing tax advice and tax planning advice, and representing clients in audits by the Internal Revenue Service ("IRS") and litigation with the IRS in Tax Court. As part of its tax practice, E&Y had a business unit known as Personal Financial Counseling ("PFC"). PFC was responsible for providing tax advice, as well as financial planning advice, to individuals.

6. In or about 1998, the national leader of PFC formed a group that devoted itself to designing, marketing, and implementing high-fee tax strategies for individual clients. The group initially called itself the "VIPER Group" (an acronym for

"Value Ideas Produce Extraordinary Results"), but changed its name, in or about early 2000, to the "Strategic Individual Solutions Group," or "SISG." Members of the VIPER/SISG group worked together with banks, other financial institutions, law firms and tax shelter promoters to design, market and implement tax strategies to high net-worth clients for the purpose of eliminating, reducing or deferring taxes on significant income or gains.

7. Belle M. Six ("Six") was hired by E&Y in early 1998, as a member of the VIPER group. She was not an expert in tax, but was hired to help develop and coordinate the group's sales efforts. As a member of the group, Six participated together with other members in the development, marketing and implementation of tax shelters for E&Y's wealthy clients.

8. Six left E&Y in 1999, and subsequently worked at two other entities that were involved with E&Y in developing, marketing, and implementing tax shelters. Six acted as a liaison between these entities and E&Y.

Tax Shelter Fraud

9. From in or about 1998 through in or about 2004, Six participated in a scheme to defraud the IRS by misleading the IRS about the bona fides of E&Y's tax shelters. Based upon information and belief, Six and others made false and fraudulent statements through the mail and by interstate wire communications by deliberately generating false and fraudulent documentation, and

then submitted their false and fraudulent documentation to the IRS to conceal the true nature of E&Y's tax shelter transactions.

10. Among the fraudulent tax shelter transactions marketed and implemented on behalf of individual clients by Six and others were shelters called Contingent Deferred Swap ("CDS") and CDS Add-On. Six has admitted that with others, she helped develop false non-tax business reasons that could plausibly be advanced to justify these shelters to the IRS, and included those false reasons in transaction documents, correspondence, and other materials that would be sent to the IRS if E&Y's clients were audited. Generally, the tax shelters were designed to appear as financial investments rather than tax shelters, and the non-tax reasons the conspirators advanced related to supposed investment objectives. Six has admitted that the CDS and CDS Add-On shelters were vulnerable to IRS attack in certain respects, and that she and others submitted false and fraudulent documents to the IRS in an effort to avoid having the IRS learn of those vulnerabilities, and then seek to disallow the clients' tax positions.

11. For her participation in these tax shelter activities, Six received millions of dollars in compensation.

12. On or about June 14, 2007, Six entered into an agreement with the United States Attorney's Office for the Southern District of New York wherein she agreed, *inter alia*, to the forfeiture of the Defendant in Rem.

IV. CLAIM FOR FORFEITURE

13. Plaintiff repeats, realleges and incorporates by reference herein each and every allegation contained in paragraphs one through twelve of this Verified Complaint.

14. Title 18, United States Code, Section 981(a)(1)(C) subjects to forfeiture:

"[a]ny property, real or personal, which constitutes or is derived from proceeds traceable to . . . any offense constituting 'specific unlawful activity' (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense."

15. By reason of the above, the Defendant in Rem is subject to forfeiture to the United States of America pursuant to 18 U.S.C. § 981(a)(1)(C), because there is probable cause to believe that the Defendant in Rem constitutes property derived from mail fraud and wire fraud, in violations of Title 18 United States Code, Sections 1341 and 1343.

Dated: New York, New York  
December 1, 2007

MICHAEL J. GARCIA  
United States Attorney for  
Plaintiff United States of America

By:

  
SHARON COHEN LEVIN  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, New York 10007  
(212) 637-1060

VERIFICATION

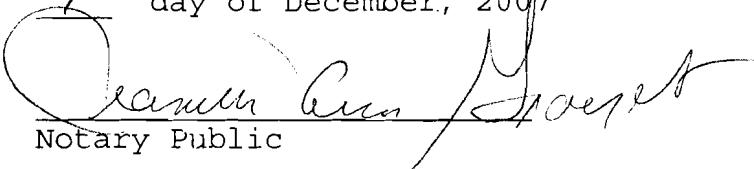
STATE OF NEW YORK )  
COUNTY OF NEW YORK :  
SOUTHERN DISTRICT OF NEW YORK )

JEFFREY FATA, being duly sworn, deposes and says that he is a Special Agent with the Internal Revenue Service ("IRS") and as such has responsibility for the within action; that he has read the foregoing complaint and knows the contents thereof; and that the same is true to the best of his knowledge, information and belief.

The sources of deponent's information and the ground of his belief are official records and files of the IRS and other law enforcement agencies and information obtained directly by deponent and other case agents during an investigation of alleged violations of Title 18, United States Code, Sections 1341 and 1343.

  
\_\_\_\_\_  
JEFFREY FATA  
Special Agent  
Internal Revenue Service

Sworn to before me this  
21<sup>st</sup> day of December, 2007

  
Notary Public

JEANETTE ANN GRAYEB  
Notary Public, State of New York  
No. 01GR4995793  
Qualified in Kings County  
Commission Expires Nov 30, 2009

# EXHIBIT B



United States Attorney  
Southern District of New York

---

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

December 11, 2007

CERTIFIED MAIL-RETURN  
RECEIPT REQUESTED

John W. Moscow, Esq.  
Attorney For Belle Six  
Baker & Hostetler LLP  
666 Fifth Ave.  
New York, NY 10103

Re: U.S. v. \$12,685,257.10 in UNITED STATES CURRENCY  
07 Civ. 11089

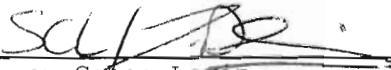
Dear Mr. Moscow:

This letter is to advise you that on December 7, 2007, the United States commenced a civil action in the United States District Court for the Southern District of New York seeking the forfeiture of the above-referenced property pursuant to 18 U.S.C. § 981(a)(1)(C). A copy of the complaint in this action is enclosed.

Should your client wish to contest the forfeiture, you must do so by filing a claim pursuant to Rule G of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure with the Clerk of the Court no later than thirty five (35) days of the date of this letter. Thereafter, within twenty (20) days after filing a claim, you must file your answer to the complaint. This procedure must be followed regardless of any petition for the remission or mitigation of forfeiture which you may have pending, and failure to do so could result in the entry of a default judgment against the property.

Very truly yours,

MICHAEL J. GARCIA  
United States Attorney

By:   
Sharon Cohen Levin  
Assistant United States Attorney  
Tel. No.: (212) 637-1060  
Fax No: (212) 637-0421

Enclosure


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[Track & Confirm](#)

## Track & Confirm

### Search Results

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Equal Employment Opportunity Data



Freedom of Information Act

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Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To	John W. Moscow, Esq.
Street, Apt. No., or PO Box No.	666 5th Ave
City, State, ZIP+4	NY, NY 10103

PS Form 3800, June 2002

See Reverse for Instructions

# EXHIBIT C

**Department of the Treasury**  
*Federal Law Enforcement Agencies*  
**PROCESS RECEIPT AND RETURN**

PLAINTIFF UNITED STATES OF AMERICA		COURT CASE NUMBER 07 Civ. 11089		
DEFENDANT \$12,685,257.10		TYPE OF PROCESS Publish Notice		
<b>SERVE</b> <b>AT</b>	John Ricupero			
	290 Broadway, 4th Fl., NY, NY 10007			
Send NOTICE OF SERVICE copy to Requester:  <b>U.S. ATTORNEY'S OFFICE- SDNY</b> <b>ONE SAINT ANDREWS PLAZA</b> <b>NEW YORK, NEW YORK 10007</b> ATTN: Tony Dulgerian		Number Of Process To Be Served In This Case.  Number Of Parties To Be Served In This Case.  <input type="checkbox"/> Check Box If Service Is On USA		
SPECIAL INSTRUCTIONS or OTHER INFORMATION TO ASSIST IN EXPEDITING SERVICE AFTRAK #:s: 13070039-01, 13070039-02, 13070039-03				
Please publish the following for three consecutive weeks in a newspaper of general circulation.				
Please return to FSA Law Clerk Tony Dulgerian, 212-637-2404.				
Signature of Attorney or other Originator requesting service on behalf of AUSA Sharon Cohen Levin <i>[Signature]</i>		<input checked="" type="checkbox"/> Plaintiff      Telephone No. 212-637-1060 <input type="checkbox"/> Defendant      Date December 11, 2007		
SIGNATURE OF PERSON ACCEPTING PROCESS: <i>[Signature]</i> Date <i>12/11/08</i>				
<b>SPACE BELOW FOR USE OF TREASURY LAW ENFORCEMENT AGENCY</b>				
I acknowledge receipt for the Total # of Process indicated.	District of Origin No. <i>3</i>	District to Serve No. <i>13</i>	SIGNATURE OF AUTHORIZED TREASURY AGENCY OFFICER: <i>[Signature]</i>	Date <i>12/11/08</i>
I hereby Certify and Return That I <input type="checkbox"/> PERSONALLY SERVED, <input checked="" type="checkbox"/> HAVE LEGAL EVIDENCE OF SERVICE, <input type="checkbox"/> HAVE EXECUTED AS SHOWN IN "REMARKS", the Process Described on the Individual, Company, Corporation, Etc., At The Address Shown Above or at the Address Inserted Below.				
<input type="checkbox"/> I HEREBY CERTIFY AND RETURN THAT I AM UNABLE TO LOCATE THE INDIVIDUAL, COMPANY, CORPORATION, ETC. NAMED ABOVE.				
NAME & TITLE of Individual Served If not shown above: J. Pollard Forfeiture Specialist		<input type="checkbox"/> I A Person of suitable age and discretion then residing in the defendant's usual place of abode		
ADDRESS: (Complete only if different than shown above.)		Date of Service	Time of Service	<input type="checkbox"/> 1 AM <input type="checkbox"/> 1 PM
Signature, Title and Treasury Agency				
REMARKS: <i>See attached legal affidavit of Plaintiff</i>				

TD F 90-22.48 (6/96)

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Make 15 copies after form is signed. SEND ORIGINAL + 4 COPIES to TREASURY AGENCY. Retain Copy #5 for your file.

---

RETURNED COPY

**State of New York**  
COUNTY OF NEW YORK

SS:

620212

being duly sworn,  
says that he/she is the principal Clerk of the Publisher of the

## New York Post

a daily newspaper of general circulation printed and published in the English language, in the County of New York, State of New York; that advertisement hereto annexed has been regularly published in the said "NEW YORK POST" once,

on the 27 day of December, 2007

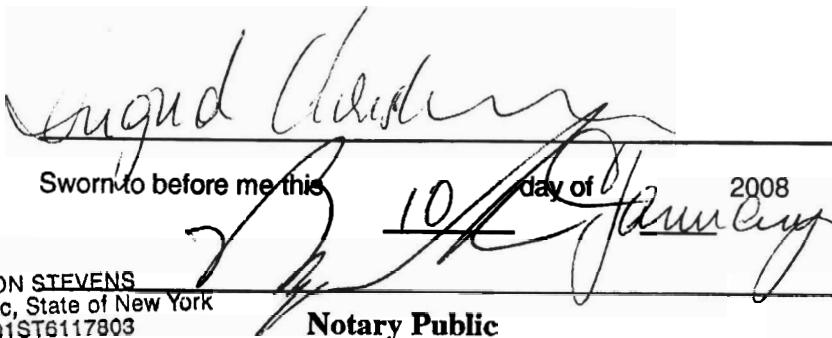
on the 03 day of January, 2008

on the 10 day of January, 2008

USA-33s-100-NOTICE OF CIVIL  
FORFEITURE PROCEEDING Rev. 11/94  
UNITED STATES DISTRICT COURT:  
SOUTHERN DISTRICT OF NEW YORK  
On December 7, 2007, the United States of America commenced a civil action demanding forfeiture thereof pursuant to 18 U.S.C. § 981(a)(1)(C) for \$12,685,257.10 in United States Currency.  
Notice is hereby given that all persons claiming the same or knowing or having anything to say why the same should not be forfeited pursuant to the prayer of said complaint, must file their claim in accordance with Rule G form the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions with the Clerk of the Court, in Room 120, United States Court House, 500 Pearl Street, New York, New York by February 9, 2008 which is 30 days after the last publication of this action or within such additional time as may be allowed by the Court, and must serve their answers within 20 days after the filing of their claims, or default and forfeiture will be ordered. Any person with an interest in the property may also wish to file a petition for remission or mitigation of the forfeiture, as provided for in Title 28, Code of Federal regulations, and failure to file such a petition may affect any rights that a person claiming an interest in the property may have with respect to that property.

Dated: New York, New York  
December, 2007

MICHAEL J. GARCIA  
United States Attorney  
Secretary of Treasury

  
Sworn to before me this

10 day of January 2008

Notary Public

BYRON STEVENS  
Notary Public, State of New York  
No. 01ST6117803  
Qualified in New York County  
Commission Expires November 1, 2008

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

UNITED STATES OF AMERICA,

Plaintiff,

- v. -

\$12,685,257.10 IN UNITED STATES CURRENCY,

Defendant-in-rem.

---

**DECLARATION IN SUPPORT OF DEFAULT JUDGMENT**  
**07 Civ. 11089 (VM)**

---

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
Attorney for the United States of America  
One St. Andrew's Plaza  
New York, New York 10007

SHARON COHEN LEVIN  
Assistant United States Attorney  
-Of Counsel-

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
By: SHARON COHEN LEVIN  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, New York 10007  
Tel. (212) 637-1060

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA, :  
  
Plaintiff, :  
  
- v. - : CLERK'S CERTIFICATION  
07 Civ. 11089 (VM)  
\$12,685,257.10 IN UNITED STATES :  
CURRENCY, :  
  
Defendant-in-rem.  
-----x

I, Michael McMahon, Clerk of the United States District Court for the Southern District of New York, hereby certify that the docket entries in the above-captioned case indicate that the verified complaint herein was filed on December 7, 2007, and that proof of publication was filed in the Clerk's office on April 28, 2008. I further certify that the docket entries indicate that no party has filed a claim or answer to the Verified Complaint, and that the time to file a claim with respect to said Complaint has expired. The default of all persons is hereby noted.

Dated: New York, New York  
May 1, 2008

  
\_\_\_\_\_  
Michael McMahon  
CLERK OF THE COURT

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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---

UNITED STATES OF AMERICA,

Plaintiff,

- v. -

\$12,685,257.10 IN UNITED STATES CURRENCY,

Defendant-in-rem.

---

**CLERK'S CERTIFICATION  
07 Civ. 11089 (VM)**

---

---

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
Attorney for the United States of America  
One St. Andrew's Plaza  
New York, New York 10007

SHARON COHEN LEVIN  
**Assistant United States Attorney**  
**-Of Counsel-**

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
By: SHARON COHEN LEVIN  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, New York 10007  
Tel. (212) 637-1060

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA, :  
  
Plaintiff, :  
  
- v. - : DEFAULT JUDGMENT  
\$12,685,257.10 IN UNITED STATES :  
CURRENCY, :  
  
Defendant-in-rem.  
-----x

WHEREAS, on December 7, 2007, the United States commenced a civil action for the forfeiture of the above-referenced defendant-in-rem by the filing of a verified complaint;

WHEREAS, on December 11, 2007 a notice letter of the verified complaint was sent by certified mail, return receipt requested, to John W. Moscow, Esq., Baker & Hostetler, as attorney for Belle Six, 666 Fifth Ave., New York, NY 10103, notifying him that his client may have an interest in this action, and of their right to file a claim and answer and contest the forfeiture;

WHEREAS, the foregoing is the only person known by the Government to have a potential interest in the defendant-in-rem;

WHEREAS, notice of the Verified Complaint and in rem warrant against the defendant-in-rem was published in the New York

Post once in each of the three successive weeks beginning on December 27, 2007, and proof of such publication was filed with the Clerk of this Court on April 28, 2008;

WHEREAS, no claims or answers were filed or made in this action, and no parties have appeared to contest the action to date, and the requisite time periods have expired;

NOW THEREFORE, on the motion of Michael J. Garcia, United States Attorney for the Southern District of New York, attorneys for the plaintiff United States of America, Sharon Cohen Levin of counsel;

IT IS HEREBY ORDERED that:

1. Plaintiff United States of America shall have judgment by default against the defendant-in-rem.
2. The defendant-in-rem be, and the same hereby is, forfeited to the plaintiff United States of America.

3. The Department of Treasury shall dispose of the defendant-in-rem, according to law.

Dated: New York, New York  
May , 2008

SO ORDERED:

---

HONORABLE VICTOR MARRERO  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

UNITED STATES OF AMERICA,

Plaintiff,

- v. -

\$12,685,257.10 IN UNITED STATES CURRENCY,

Defendant-in-rem.

---

**DEFAULT JUDGMENT  
07 Civ. 11089 (VM)**

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MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
Attorney for the United States of America  
One St. Andrew's Plaza  
New York, New York 10007

SHARON COHEN LEVIN  
**Assistant United States Attorney**  
**-Of Counsel-**